IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

WEALTH TAX REFERENCE No 4 of 1990
WITH
WEALTH TAX REFERENCE No 17 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH Sd/-
and
Hon'ble MR.JUSTICE D.A.MEHTA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

COMMISSIONER OF WEALTH-TAX

Versus

L B KHARAWALA L R OF LATE B T KHARAWALA

Appearance:
MR BB NAYAK FOR MR MANISH R BHATT for Applicant.
MR RK PATEL for Respondent.

CORAM : MR.JUSTICE M.S.SHAH
and
MR.JUSTICE D.A.MEHTA

Date of decision: 07/11/2001

COMMON JUDGEMENT

(Per : MR.JUSTICE M.S.SHAH)

In Wealth Tax Reference No. 4 of 1990 at the instance of the revenue, the Income Tax Appellate Tribunal, Ahmedabad has referred the following questions for our opinion in respect of the assessment years 1970-71 to 1974-75 :

W.T.R.No.4 of 1990.

1 "Whether, when once the properties had been valued at rental method, the reversionary value of land could not be added to arrive at market value ?"

2 "Whether, on the facts and in the circumstances of the case, the valuation of the properties by the WTO by rental method and thereafter adding the reversionary value of land to it, was not correct ?"

2 In Wealth Tax Reference No. 17 of 1989 the following question has been referred for our opinion in respect of the assessment years 1977-78 to 1980-81 :

W.T.R. 17 of 1989.

"Whether, on the facts and in the circumstances of the case the Tribunal is right in law in confirming the order of the CIT(A) in holding that once the property has been valued by rental method, the reversionary value of the land should not be added to it ?"

2 We have heard Mr.B.B.Nayak, learned Counsel for the revenue. Though served none appears for the Accountable person. In all the questions the controversy raised is basically about the method of valuation and addition of the reversionary value of the land. The Wealth Tax Officer relied upon the valuation report of the departmental valuer who had valued the property according to the rental method, yet had also added the reversionary value of the land over and above the rental value. This controversy has been concluded by the decision of this Court dated 25/09/2001 in Wealth Tax Reference No. 17 of 1987.

3 Following the aforesaid decision our answer to all the questions are in the affirmative i.e. in favour

of the assessee and against the revenue.

4 The references stand disposed of accordingly with no order as to costs.

Sd/- Sd/-
(M.S.Shah, J) (D.A.Mehta,J)

m.m.bhatt